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FEDERAL ELECTION COMMISSION

Brad Woodhouse
American Democracy Legal Fund
455 Massachusetts Avenue, NW
Washington, DC 20001

OFFICE OF GENERAL
COUNSEL

Complainant,

MUR # 7037

v.

Mr. Donald Trump
725 Fifth Avenue
New York, New York 10022

Donald J. Trump for President, Inc., and Timothy Jost, Treasurer
725 Fifth Avenue
New York, New York 10022

Respondents.

COMPLAINT

This complaint is filed under 52 U.S.C. § 30109(a)(1) against Mr. Donald Trump, Donald J. Trump for President, Inc. (the "Committee"), and Timothy Jost, in his official capacity as Treasurer (collectively "Respondents") for violating the Federal Election Campaign Act of 1971, as amended (the "Act") and Federal Election Commission (the "Commission") regulations, as described below. Mr. Trump's campaign released a political advertisement three days before the Ohio Republican presidential primary that did not contain the required written disclaimer at the end of the ad.

FACTS

Mr. Trump is a candidate for the Republican presidential nomination.¹ On March 12, three days before the Ohio Republican presidential primary, Mr. Trump's campaign released a

¹ FEC, Donald J. Trump Statement of Candidacy (June 22, 2015), <http://docquery.fec.gov/pdf/291/15031432291/15031432291.pdf>.

political advertisement against fellow Republican candidate Governor John Kasich.² The thirty-second television ad attacked Governor Kasich for his work at Lehman Brothers during its collapse, for accepting the Affordable Care Act's Medicaid expansion, and for spending a significant amount of time outside of Ohio to campaign for the Republican presidential nomination.³ At the beginning of the ad, there is an image of Mr. Trump accompanied by his voiceover stating, "I'm Donald Trump, and I approve this message."⁴ Included in this frame is the following written disclaimer: "Paid for by Donald J. Trump for President, Inc., Approved by Donald Trump."⁵ However, the end of Mr. Trump's advertisement did not contain a similar written disclaimer.

LEGAL DISCUSSION

Respondents Violated the Act and Its Regulations by Not Including a Written Disclaimer at the End of the Television Advertisement.

The Act requires that all public communications paid for by a candidate or his authorized committee must state that the communication had been paid for by the authorized committee.⁶ Additionally, the communication must contain "a statement that identifies the candidate and states that the candidate has approved [it]."⁷ A "public communication" is, in relevant part, "a communication by means of any broadcast, cable, or satellite communication."⁸ In addition to being spoken, the candidate's disclaimer must also "appear in writing at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between

² Nick Corasanti & Maggie Haberman, *Kasich Backers Knock Trump Ad Off Air in Ohio*, N.Y. Times: First Draft (Mar. 12, 2016, 2:52 PM), <http://www.nytimes.com/politics/first-draft/2016/03/12/kasich-backers-knock-trump-ad-off-air-in-ohio/>. To view the offending advertisement, please see Donald J. Trump (@realDonaldTrump), Twitter (Mar. 11, 2016, 9:58 AM), <https://twitter.com/realDonaldTrump/status/708351381678088192>.

³ See Noah Gray & Cassie Spodak, *Donald Trump Targets John Kasich in Attack Ad*, CNN (Mar. 11, 2016, 3:40 PM), <http://www.cnn.com/2016/03/11/politics/donald-trump-john-kasich-tv-attack-ad-ohio/>.

⁴ Donald J. Trump (@realDonaldTrump), Twitter (Mar. 11, 2016, 9:58 AM), <https://twitter.com/realDonaldTrump/status/708351381678088192>.

⁵ *Id.*

⁶ 52 U.S.C. § 30120(a)(1).

⁷ *Id.* § 30120(d)(1)(B); 11 C.F.R. § 110.11(c)(ii).

⁸ § 30101(22).

the background and the printed statement, for a period of at least 4 seconds.”⁹ These requirements are commonly known as “Stand-by-Your-Ad” provisions.¹⁰

Despite the clear instructions on the placement of written disclaimers in television advertisements, Respondents’ ad did not meet that requirement. Respondents placed the written disclaimer at the beginning of the advertisement but that is not what the law requires; rather, a written disclaimer must appear at the end of the ad. Conspicuously missing from the ad’s final four seconds was a disclaimer appearing in “letters equal to or greater than four percent of the vertical picture height” with a “reasonable degree of color contrast between the background and the text” that indicated Mr. Trump approved the advertisement.¹¹ Instead, the final four seconds of the ad contained an image of Governor Kasich and the words “John Kasich All Talk No Action Politician.”

Respondents’ decision not to place the written disclaimer at the end of the advertisement not only violates the letter of the law but also contravenes the purpose of the Act’s provisions and regulations. The Stand-by-Your-Ad provisions are intended to hold candidates personally responsible and accountable for their advertisements.¹² This accountability is accomplished not only through the candidate’s spoken disclaimer but also through the written disclaimer at the end of the ad. The inclusion of this disclaimer at the end of the advertisement suggests that the candidate stands by everything that came before it. As such, this requirement restricts a candidate’s ability to distance himself from the contents of his advertisement and ensures that “a candidate who is going to say something . . . negative about an opponent has to own up to it.”¹³

⁹ *Id.* § 30120(d)(1)(B)(ii); *see also* § 110.11(c)(3)(ii)–(iii).

¹⁰ *See, e.g.*, FEC, Adv. Op. 2004-10, at 3 (April 30, 2004) (stating that these provisions are “colloquially known as a “stand by your ad” requirement[s] because [they] directly associate[] the candidate with the message he or she has authorized).

¹¹ § 110.11(c)(3)(iii).

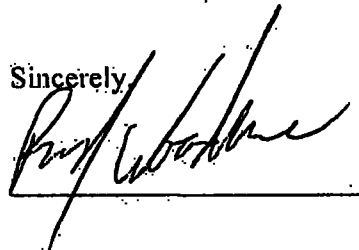
¹² 123 Cong. Rec. S2174 (daily ed. Mar. 20, 2002) (Statement of Sen. Wyden), <https://www.congress.gov/crec/2002/03/20/CREC-2002-03-20-pt1-PgS2174-2.pdf>.

Because Mr. Trump's advertisement was a public communication, its lack of a written disclaimer during its final four seconds violated the Act and Commission regulations.

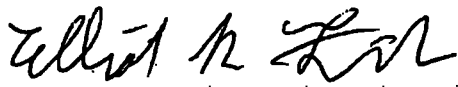
REQUESTED ACTION

As we have shown, Respondents have violated the Act and Commission regulations by airing a political advertisement without the four second written disclaimer at the end of the ad. As such, we respectfully request that the Commission immediately investigate these violations and that Respondents be enjoined from further violations and be fined the maximum amount permitted by law.

Sincerely,



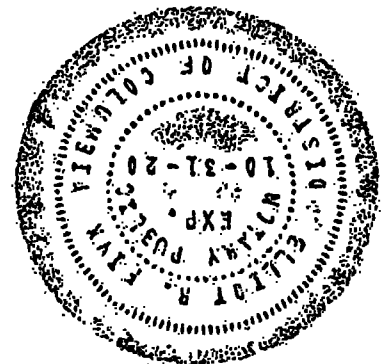
SUBSCRIBED AND SWORN to before me this 29 day of March, 2016.



Notary Public

My Commission Expires:

10/31/2020



¹¹ *Id.* (quoting Sen. Wyden).

Donald Trump targets John Kasich in attack ad

By Noah Gray and Cassie Spodak, CNN

🕒 Updated 3:40 PM ET, Fri March 11, 2016 | Video Source:

CNN

Story highlights

Donald Trump officially added Ohio Gov. John Kasich to his list of "no-action, all-talk politicians" Friday

The New Yorker launched a 30-second ad, first tweeted out by Trump, that will air throughout Ohio, according to the Trump campaign.

The ad which comes just days before Ohio's primary

(CNN) — Donald Trump officially added John Kasich to his list of "no-action, all-talk politicians" Friday afternoon, hitting the Ohio governor harder than usual in his first attack ad against him.

The 30-second spot, first tweeted out by Trump, will air throughout the Buckeye State, according to the Trump campaign. The ad comes just days before Ohio's primary on Tuesday and claims Kasich "helped Wall Street predator Lehman Brothers destroy the world economy" and criticizes the Ohio governor for spending time in states other than his own.



Donald J. Trump
@realDonaldTrump

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12:58 PM - 11 Mar 2016

4,999

10,695

RELATED: Rubio adviser Alex Conant: Best chance to stop Trump in Ohio is Kasich

Kasich joined Lehman's investment banking division as managing director in 2001, working there until the firm's collapse in September 2008, which unleashed global panic and served as a catalyst for the financial crisis.

Referring to Kasich's campaign as a "failing presidential bid," the ad also makes the claim that Kasich "gave Ohio Obamacare," a reference to his decision to expand Medicaid.

The ad also comes after Trump, who once said he would not release attack ads, released two ads going after Marco Rubio earlier this week.

RELATED: Inside John Kasich's strategy to beat Donald Trump in Ohio

Trump has avoided exchanging jabs with Kasich on the campaign trail, but has added "absentee governor" to his repertoire lately when talking about the Ohio governor. But as a recent Fox News poll shows Kasich with a 5-point lead in Ohio, Trump is changing his approach.

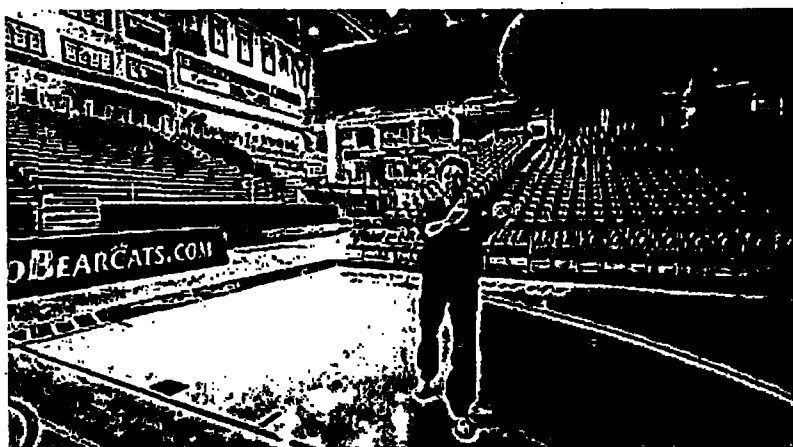
A CNN Poll of Polls analysis of three recent Ohio Republican primary polls shows Trump with a 2-percentage-point lead over Kasich.

When asked for response, Kasich campaign spokesperson Chris Schrimpf told CNN, "Unlike Donald Trump, who has shipped American jobs overseas, the people of Ohio know Governor Kasich is helping bring jobs from China and Mexico back to Ohio. That's why Ohio has added more than 400,000 jobs since John Kasich became governor."

Schrimpf adds that he expected the attacks to get "more and more desperate" but plans to stay positive, saying the attacks are a clear sign Kasich is gaining momentum.

READ: CNN Poll of Polls: Donald Trump leads in Ohio, Florida

Just hours before the ad's release, Trump told reporters at a press conference that he thinks he'll beat Kasich in Ohio, and echoed the same attacks against Kasich for not spending time in Ohio, which holds its primary on Tuesday.



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The New York Times

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2:52 pm ET

By Nick Corasaniti and Maggie Haberman

Kasich Backers Knock Trump Ad Off Air in Ohio

2:52 pm ET

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advertisements from

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Mr. Kasich, sent
falsely attacking Ohio
al regulations for

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“No disclaimer appears at the end of the advertisement paid for by Donald Trump,” Matt Carle, executive director of New Day for America, wrote in the complaint. “Consequently, this advertisement is in violation of the Federal Election Campaign Act of 1971, and it must be removed from the air.”

The move to block the ad was announced by New Day for America, and confirmed with media buyers. WHIO and WDTN, among others, are not going to air the ad in its current form. The ad was released late on Friday, and began running in Ohio on Saturday morning.

The Federal Election Commission says that political ads must include a “clearly readable” written statement that appears at their end “for a period of at least four seconds” with a “reasonable degree of color contrast” between the background and the disclaimer statement.

Mr. Trump has varied where he has placed his disclaimer in his advertising, sometimes putting it at the beginning and other times at the end. The campaign has not had a problem with any of its ads until now.

The ad being challenged now accused Mr. Kasich of helping “Wall Street predator Lehman Brothers destroy the world economy.” It also called him an “absentee governor,” a critique Mr. Trump has been using on the campaign trail as well.

“Campaigns always reflect the candidate, and it’s clearly amateur hour over at Trump HQ,” Matt David, New Day For America’s chief strategist, said

in a statement. "How can a campaign who can't figure out how to run a television ad possibly beat the Clinton political machine? It's a joke."

The Kasich ad and two airing in Florida about Senator Marco Rubio have been a departure from the tone and visuals of previous spots. The Trump campaign has never identified who has made his ads, although his Federal Election Commission filings show payments to the firm owned by Rick Reed, a veteran Republican ad maker.

The new spots, according to two people briefed on the campaign's plans who asked for anonymity to speak about private discussions, were made by a Florida-based firm.

Mr. Trump's spokeswoman, Hope Hicks, declined to respond to questions about who made the recent ads and the status of the ad in question in Ohio.

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10:18 pm ET

By Marc Tracy

Police Use Pepper Spray to Disperse Protesters Outside Trump Rally in Kansas City

10:18 pm ET

By Marc Tracy

KANSAS CITY, Mo. — The police used pepper spray twice to disperse protesters outside Donald J. Trump's rally here Saturday night, just 24 hours after confrontations between his supporters and demonstrators led to the cancellation of a Chicago event.

Cellphone video posted on social media appeared to show as many as four cans of spray being used at one point as protesters confronted police officers on foot and on horseback.